

NO. PD-0845-20

**In the
Court of Criminal Appeals
of Texas**

ROY OLIVER,

APPELLANT,

V.

THE STATE OF TEXAS,

APPELLEE.

FILED
COURT OF CRIMINAL APPEALS
5/25/2022
DEANA WILLIAMSON, CLERK

**ON APPELLANT’S PETITION FOR DISCRETIONARY REVIEW FROM
THE COURT OF APPEALS FOR THE FIFTH COURT OF APPEALS DISTRICT
DALLAS COUNTY, TEXAS
IN CAUSE NO. 05-18-01057-CR**

NOTICE OF APPEARANCE

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Appellant, Roy Oliver (“Officer Oliver” or “Appellant”) in the above-styled and numbered cause, and, in accordance with Tex. R. App. P. 6.2, hereby gives notice that William W. Krueger, III, is appearing as Counsel on Appellant’s behalf in this matter. Attorney Krueger is lead counsel for Appellant in the civil case arising from the incident forming the basis of the State’s charges and subsequent conviction against Appellant.

Over the course of the civil litigation, and after Appellant’s conviction, numerous pieces of undisputed evidence that were not available during the criminal trial were uncovered. This evidence proves the bullet that struck the nursing home, the admitted and undisputed first shot, precludes the State’s fifth shot. The State alleged the fifth shot ricocheted into the undercarriage of the suspect car. Officer Oliver undisputedly fired only five shots. However, the State’s fifth shot cannot be reproduced, recreated, or explained. It is refuted by Officer Oliver’s body worn camera

footage. The footage did not record the drastic rifle movement required to adjust Officer Oliver's aim. Moreover, the drastic movement and adjustment are not explained. The State's fifth shot does not leave gunshot residue evidence or impact evidence on the asphalt road (impossible). Notwithstanding that, the Federal Tactical Urban bullet used by Officer Oliver would fragment upon impact preventing any ricochet into the undercarriage. The State's fifth shot would be Officer Oliver's sixth shot—again impossible considering the body worn camera footage, investigation, sworn testimony, and physical evidence confirming Officer Oliver only fired five shots on the night of the incident. The State's fifth shot is indisputably impossibly manufactured.

Compared to the evidence presented during trial, this new evidence changes: (1) the position of Officer Oliver relative to the suspect car, (2) the timing of Officer Oliver's shots relative to the perceived gunfire, and (3) the reasonableness of Officer Oliver fearing for the safety of himself and Officer Gross. Taken in conjunction with Officer Gross breaking the window of the suspect car, and all witnesses besides Officer Gross testifying the shattered glass sounded like a gunshot, this new evidence is undisputed and exonerates Officer Oliver.

Therefore, Attorney Krueger appears before this Court on behalf of Appellant and requests this Honorable Court allow Appellant forty-five (45) days to present this exonerating evidence to the Court.

Respectfully submitted,

**LAW OFFICES OF
WILLIAM W. KRUEGER, III PC**

/s/ William W. Krueger, III

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing instrument has been served upon all attorneys of record in this cause of action in accordance with Texas Rules of Civil Procedure, this 18th day of May, 2022.

/s/ William W. Krueger, III
WILLIAM W. KRUEGER, III

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Associated Case Party: Roy Oliver

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